

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

**Proposing rule making related to sales or leases by regulatory agency officials or employees
and providing an opportunity for public comment**

The Ethics and Campaign Disclosure Board hereby proposes to amend Chapter 1, “Iowa Ethics and Campaign Disclosure Board,” and Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 68B.32A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 68B.4 as amended by 2021 Iowa Acts, House File 491.

Purpose and Summary

These proposed amendments implement 2021 Iowa Acts, House File 491, prohibiting state regulatory agency officials and employees from selling or leasing real estate to persons subject to the agency’s regulatory authority unless certain conditions are met.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 351—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 28, 2021. Comments should be directed to:

Michael Marshall
Iowa Ethics and Campaign Disclosure Board
510 East 12th Street, Suite 1A
Des Moines, Iowa 50319
Fax: 515.281.4073
Email: mike.marshall@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 29, 2021
2 to 2:15 p.m.

Zoom link:
us02web.zoom.us/j/82254559463?pwd=cmdEZU9LY1ZLaFhwbFkzUkRXNGNydz09
Meeting ID: 822 5455 9463
Passcode: 174520
Phone: +1 312.626.6799 US (Chicago) (enter meeting ID and passcode)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.4(9) as follows:

1.4(9) As the board is defined as a “regulatory agency” under Iowa Code section 68B.2(23), members and staff of the board shall comply with the requirements of Iowa Code section 68B.4 and rule 351—6.11(68B) prior to selling or leasing goods, real estate, or services to individuals, associations, or corporations subject to the board’s regulatory authority.

ITEM 2. Amend **351—Chapter 6**, Division III heading, as follows:

SALES OR LEASES OF GOODS, REAL ESTATE, OR SERVICES

ITEM 3. Amend rule 351—6.11(68B), introductory paragraph, as follows:

351—6.11(68B) Sales or leases by regulatory agency officials or employees. An official or employee of a regulatory agency shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official’s or employee’s agency except as provided by Iowa Code section 68B.4 and this rule. This prohibition does not apply to sales or leases that are part of the official’s or employee’s state duties.

ITEM 4. Rescind subrule **6.11(1)**.

ITEM 5. Renumber subrules **6.11(2)** to **6.11(8)** as **6.11(1)** to **6.11(7)**.

ITEM 6. Amend renumbered subrule 6.11(2) as follows:

6.11(2) Request for consent. An official’s or employee’s request for an agency’s consent to the sale or lease of goods, real estate, or services shall comply with all of the following:

- a. The request shall be in writing and shall be filed with the official’s or employee’s agency at least 20 calendar days in advance of the proposed sale or lease of any goods, real estate, or services.
- b. The request shall include all of the following:
 - (1) The name of the individual, association, or corporation to which the goods, real estate, or services are to be sold or leased;
 - (2) The relationship of the individual, association, or corporation to the agency;
 - (3) A description of the goods, real estate, or services;
 - (4) The date or dates that the goods, real estate, or services will be delivered; and

(5) A statement by the official or employee explaining how the proposed sale or lease of the goods, real estate, or services will not violate the provisions of Iowa Code section 68B.4 or create a conflict of interest under Iowa Code section 68B.2A.

ITEM 7. Amend renumbered subrule 6.11(3) as follows:

6.11(3) *Agency guidelines.* Iowa Code section 68B.4 and the guidelines in this subrule shall be the sole legal authorities to be used by an agency in considering the granting of consent. In determining whether to grant consent, the agency shall take the following guidelines into consideration:

- a. No change.
- b. The duties and functions performed by the official or employee seeking consent are not related to the regulatory authority of the agency over the individual, association, or corporation to which the goods, real estate, or services will be sold or leased.
- c. The selling or leasing of the goods, real estate, or services does not affect the official's or employee's duties or functions at the agency.
- d. The selling or leasing of the goods, real estate, or services will not cause the official or employee to advocate on behalf of the individual, association, or corporation to the agency.
- e. The selling or leasing of the goods, real estate, or services does not cause the official or employee to sell or lease goods, real estate, or services to the agency on behalf of the individual, association, or corporation.
- f. The selling or leasing of the goods, real estate, or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.
- g. The request complies with the procedural requirements of subrule ~~6.11(3)~~ 6.11(2).
- h. A regulatory agency may grant blanket consent for sales or leases to classes of individuals, associations, or persons when such blanket consent is consistent with subrule ~~6.11(4)~~ 6.11(3) and the granting of single consents is impractical or impossible to determine.

These guidelines shall be publicized and made known to all personnel throughout the agency.